1982
Annual
Report

British Columbia Marketing Board

Province of
British Columbia

Ministry of
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THE BRITISH COLUMBIA MARKETING BOARD ANNUAL REPORT

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To the Honourable
HENRY P. BELL-IRVING,
D.S.O., O.B.E., E.D.,
Lieutenant Governor of the Province
of British Columbia

MAY IT PLEASE YOUR HONOUR:

I have the honour to submit for your consideration the Annual Report for the British Columbia Marketing Board for the year 1982.

CHARLES E. EMERY
Chairman

MEMBERS ON JANUARY 1, 1982

Charles E. Emery, Osoyoos, B.C. - Chairman

Mrs. E. Mona Brun, North Vancouver, B.C.

Nigel C. Taylor, Kelowna, B.C.

Robert Reynolds, Delta, B.C.

Hal L. Black, North Vancouver, B.C.

ROLE AND FUNCTION OF THE BRITISH COLUMBIA MARKETING BOARD

The legislative authority creating the British Columbia Marketing Board, as well as for creating commodity marketing boards and commissions, is found in the Natural Products Marketing (BC) Act. This Act provides the statutory authority through which cabinet may delegate powers to producers to promote, control and regulate the production, transportation, packing, storage and marketing of their products in the province.

The British Columbia Marketing Board was constituted by the Lieutenant-Governor in Council to provide general supervision over all marketing boards and commissions operating under the Act. The Board's responsibility includes the monitoring of the activities of marketing boards and marketing commissions to ensure they are operating within the powers delegated to them by the Lieutenant-Governor in Council. To assist in this role, the marketing boards and commissions are required to provide the Board with copies of all minutes, orders, reports, rules and regulations as they are made or amended.

In addition to supervisory responsibilities, the Board serves as an administrative tribunal for hearing appeals by persons aggrieved or dissatisfied by an order, decision or determination of a marketing board or commission. These appeals are open to the public and provide both parties an opportunity to present relevant evidence and information. When rendering a decision on an appeal, the Board may dismiss the appeal, or confirm or vary the order, decision, or determination of the marketing board or commission on the terms and conditions it considers appropriate. These decisions of the Board may be appealed to the Supreme Court on a question of law.

At the federal level, the Board is a signatory to the Federal-Provincial Agreements which provide the operating framework for the Canadian Chicken Marketing Agency, the Canadian Egg Marketing Agency and the Canadian Turkey Marketing Agency. As a signatory, the Board participates in the review of marketing plans to determine if changes to the agreements are necessary so that the agencies can meet the objects of the plans. This responsibility requires considerable time and attention of the Board.

REVIEW OF 1982 ACTIVITIES

General Supervisory

The Board continued its policy to maintain good two-way communication with the marketing boards and commissions and considered it essential for maintaining effectiveness. The Board met more frequently with some marketing boards and commissions than others because the regulated agricultural industries vary considerably as to their complexity and problems.

During the first of the year, the Board found it necessary to review in depth the British Columbia Egg Marketing Board's policy for implementing the egg pricing agreement. After this review, the Board discussed its concerns with directors of the Egg Board. When changes to Egg Board policy were not forthcoming, the Board ordered the B.C. Egg Marketing Board to discontinue its policy of encouraging a pricing system for eggs produced in the province, which, in the Board's opinion, breached the pricing agreement by not implementing the price determined by the agency. Since the Egg Board did not comply

with the Board's orders, the Board filed a petition in the Supreme Court of British Columbia to have the court order the B.C. Egg Marketing Board to promptly comply with the terms of the egg pricing agreement between the National Farm Products Marketing Council, the Canadian Egg Marketing Agency, the British Columbia Marketing Board, and the British Columbia Egg Marketing Board and order the B.C. Egg Marketing Board to promptly comply with the orders of the Board relating to this matter.

Before the Honourable Madame Justice McLachlin, the application of the Board, coming on for hearing on April 29, 1982 and on hearing counsel for the Board and counsel for the B.C. Egg Marketing Board, and by consent, the Court ordered that the B.C. Egg Marketing Board comply with the orders of the British Columbia Marketing Board dated the 28th day of January, 1982 and the 3rd day of February, 1982 by implementing the price determined by the Canadian Egg Marketing Agency effective April 26th, 1983.

This petition to the Supreme Court to obtain compliance with Board orders was the first such action undertaken by the Board since being constituted in its present form in 1975. The Board subsequently reviewed its legislative responsibilities with other marketing boards and commissions so that they fully understood the Board's role.

During the early part of the year, the Board co-sponsored, with the Council of Marketing Boards, a two-day seminar which reviewed the roles and responsibilities of marketing board and commission managers and directors. The participants also reviewed legislation related to the functions of the British Columbia Marketing Board and the specific authority of the various marketing boards and commissions. The participants were pleased with the quality and content of the seminar and felt it would be useful for improving the effectiveness of their organizations.

To assist the marketing boards and commissions in better understanding the legislative requirements related to filing and documenting of their regulations, the Board, later in the year, prepared and presented a review of procedures which could be used as a reference by them. The Board was pleased to note a general improvement by the marketing boards and commissions in this area.

For the turkey industry of the province, 1982 was another difficult year because of continued problems and uncertainty in the turkey processing sector. As a result, the Board found it necessary to devote additional attention to this industry in an effort to assist in addressing some of the problems that threatened industry viability. The Board also provided guidance to the B.C. Turkey Marketing Board in respect to quota matters and revisions to their standing orders.

In September, the government granted the B.C. Hog Marketing Commission powers to regulate the time and place at which and to designate the agency through which their regulated product shall be transported and marketed, to determine the manner of distribution, and to determine charges that may be made for its services by a designated agency. These powers were granted for the period ending October 31st, 1984. After considering the appropriate method to implement these

powers, the Commission designated itself as the sole agent through which the regulated product shall be marketed. After reviewing the Hog Commission's plans for a central desk selling system, the Board discussed with the Commission the need to establish a pork industry council to assist in the orderly development of the province's hog industry.

In response to vegetable marketing problems in the B.C. interior, the Board co-sponsored with the B.C. Ministry of Agriculture and Food a marketing seminar in Vernon. At this seminar, representatives from all sectors of the vegetable industry participated and reviewed the needs and challenges of the interior vegetable industry. This seminar was well attended and served as a beginning point for the process of strengthening the interior vegetable industry.

Federal-Provincial Agreements

The agreements establishing the comprehensive marketing programs for regulating the marketing of eggs, chicken, and turkey in Canada were signed several years ago. These plans were established pursuant to the Farm Products Marketing Agencies Act (Canada) and provincial marketing legislation.

The primary function of these plans is to administer and regulate the production of eggs, chicken and turkey in Canada on a provincial and national basis. In the Egg Plan, the Canadian Egg Marketing Agency (C.E.M.A.) is also responsible for pricing, surplus removal, advertising and promotion, and sales into the export market.

The Board, when carrying out its responsibilities related to these plans, attended signatories meetings, presented position statements at inquiries conducted by the National Farm Products Marketing Council, and actively participated in meetings of the federal and provincial supervisory boards.

In response to complaints by the Ontario and Quebec Egg Boards concerning the overbase quota policy of C.E.M.A., the National Farm Products Marketing Council convened an inquiry to determine if the C.E.M.A. policy was consistent with the requirements of the Act and the proclamation.

The concern of the Ontario Egg Producers Marketing Board was that the C.E.M.A. policy did not properly consider the six criteria detailed in the plan and that this would encourage uneconomic interprovincial movement of eggs. In particular, Ontario felt that C.E.M.A. had not correctly assessed the principle of comparative advantage. The Quebec egg producers were concerned the new C.E.M.A. policy created a system which would impose constraints on Quebec, but not other provinces, as a result of the regionalization concept included in the C.E.M.A. policy. They felt the formula of C.E.M.A. maintained advantages gained by the western provinces in 1972 and that it did not take into account the capacity of each province to relate to the marketing of its production. They also felt it created interprovincial imbalances that would distort other policies of C.E.M.A.

In response to these complaints, the C.E.M.A. stressed the directors of their agency had not only the right to determine, by themselves,

the overbase quota policy for the agency, but they had the obligation to do so. When defending its policy, the C.E.M.A. reviewed the process used by it in considering the six critieria detailed in the plan.

The Board presented a submission to the inquiry and supported the B.C. Egg Marketing Board and the C.E.M.A. overbase quota policy. The position put forth on behalf of the Board and the government signatory, stressed the criteria of the plan needed to be considered as a group and that it was clear the intent of the agreement was to provide for the determination of overbase provincial market shares on a basis of "sound commerical sense". The criteria in the plan provided for consideration of growth of market size, increases in demand, the economies of production, and transportation costs from areas of supply to areas of demand.

The Board's position was that the C.E.M.A. arrived at its policy in appropriate manner and that it properly considered the roles and responsibilities of the various participants as laid out in the Federal-Provincial Agreement. In addition, the Board stressed that overbase quota policy could not be reviewed in isolation of the pricing system.

In its decision, the National Farm Products Marketing Council concluded the C.E.M.A. policy for allocation of overbase quota had several major deficiencies. They felt it introduced a new concept of regionalism and delegation to the provinces which changed significantly the relationship of the provinces to the agency effectively resulting in an abrogation by the agency of its responsibility to apply the criteria in the Federal-Provincial Agreement to the provinces within a specific region. In addition, they felt sufficient emphasis had not been placed on the principle of comparative advantage and that it was not demonstrated that the new policy properly took into account several other criteria. Council therefore denied support for a quota regulation based on C.E.M.A.'s overbase quota policy.

The National Agencies are responsible for establishing quota policy in accordance with criteria detailed in the marketing plans. The board is concerned that the National Agencies have not developed an effective process for establishing quota policy. Since the B.C. market has grown with increased population, provincial quota adjustments are needed so that increased demand can be met by local production when it makes commercial sense.

Supported by this and other provincial supervisory boards, the National Farm Products Marketing Council convened a meeting to better define the roles and responsibilities of the various signatory groups in the Federal-Provincial Plans. They felt sufficient time had passed since the establishment of the National Plans that a careful assessment would be appropriate.

At the first meeting of the supervisory boards held in Winnipeg, their legislative powers and operating policies were reviewed to determine general areas of strength and weakness in the system. In addition, they examined the operational effectiveness of the signatory meeting process. As a result of the initial meeting,

the supervisory boards developed a process to improve communication, to define and refine roles and responsibilities of the participants in the plans, and to examine methods for improving the effectivness of signatories meetings.

The Board was pleased by the success of this initial meeting. Communication between the National Council and the provincial supervisory boards improved substantially. A follow-up meeting, in the latter part of the year, continued the review process and examined the detailed analyses prepared by each of the provincial supervisory boards. This review continued into 1983.

Throughout the year, the Board addressed numerous matters concerning the operation of the three national agencies. When dealing with these federal-provincial issues, the Board considered closely the needs of the producers and industry of the province, as well as the needs of the total Canadian industry.

Appeals

During the beginning of the year, the Board reconvened an appeal that was started in December of the previous year so that it could obtain further submission from the appellant and respondent. This appeal was launched by an unlicenced egg producer in response to a decision by the British Columbia Egg Marketing Board to seize and dispose of layers kept by the appellant in a number greater than 500 for the purpose of egg production. In the course of deliberating upon the merits of the appeal, the Board became concerned with the validity of the standing orders of the British Columbia Egg Marketing Board and invited the parties to reappear before it to make submissions with respect to questions concerning whether the standing orders of the Egg Board had been filed, whether there was a requirement in law that they be filed, and whether the failure to file the standing orders should affect the outcome of the appeal. After hearing these submissions, the Board was of the opinion that the seizure of the appellant's eggs, although made in good faith, was not valid and done without lawful authority. The Board, therefore, allowed the appeal and ordered the B.C. Egg Marketing Board to return to the appellant the proceeds from the disposition of the eggs seized together with any interest which had accrued to date. Given that conclusion, the Board thought it both unnecessary and unadvisable to give any opinion as to the merits of the appeal particularly as to whether or not the order of the B.C. Egg Marketing Board was unreasonable or oppressive as claimed by the appellant.

After the Egg Board became aware that its standing orders were not filed, they undertook the necessary steps to ensure their orders were properly filed with the Registrar of Regulations. The Egg Board then advised the above mentioned appellant that he was maintaining layers in a number greater than 500 for the purpose of egg production thereby contravening the standing order of the Egg Board and it further ordered that all layers in excess of 500 be seized and disposed of forthwith. The Egg Board provided the appellant a show cause hearing. After the hearing, the B.C. Egg Marketing Board rejected the appeal and affirmed its

order to seize and dispose of layers in excess of 500 kept by the appellant. This decision of the Egg Board was then appealed to this Board by the producer. After assessing the evidence, the Board dismissed the appeal and affirmed the order of the British Columbia Egg Marketing Board.

SUMMARY

Throughout the year, the Board met with the various marketing boards and commissions, individual producers, producer associations, and industry representatives to ensure the needs of the total food system received the necessary consideration by the marketing boards and commissions. The Board was pleased to note an improvement in the operating effectiveness of the marketing boards and commissions.

PRODUCER OPERATED MARKETING BOARDS AND COMMISSIONS ESTABLISHED UNDER THE ACT

British Columbia Chicken Marketing Board

#203 - 5752 - 176 Street
Surrey, B.C. V3S 4C8

British Columbia Cranberry Marketing Board

2851 No. 8 Road
Richmond, B.C. V6V 1S2

British Columbia Egg Marketing Board

Box 310
Abbotsford, B.C. V2S 4N9

British Columbia Grape Marketing Board

Box 1060
Kelowna, B.C. V1Y 7P7

British Columbia Hog Marketing Commission

2564 Montrose Avenue
Abbotsford, B.C. V2S 3T3

British Columbia Mushroom Marketing Board

9770 199A Street, R.R. #5
Fort Langley, B.C. V3A 4P8

British Columbia Oyster Marketing Board

Box 970
Ladysmith, B.C. V0R 2E0

British Columbia Sheep and Wool Commission

c/o B.C. Federation of Agriculture
846 Broughton Street
Victoria, B.C. V8W 1E4

British Columbia Tree Fruit Marketing Board

1473 Water Street
Kelowna, B.C. V1Y 1J6

British Columbia Turkey Marketing Board

Suite 218, 17704 - 56 Avenue
Surrey, B.C. V3S 1C7

British Columbia Vegetable Marketing Commission

#313 - 17704 - 56 Avenue
Surrey, B.C. V3S 1C7

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